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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,144	12/11/2003	Nicholas G. Niejelow	OPT100013000	8265

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DELIO & PETERSON  
121 WHITNEY AVENUE  
NEW HAVEN, CT 06510

EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/733,144	<b>Applicant(s)</b> NIEJELOW ET AL.	
	<b>Examiner</b> Jeff H. Aftergut	<b>Art Unit</b> 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-11-03</u> . | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-10, 12, 13, 15-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbin et al in view of Salamon and Lipman.

Herbin suggested that it was known at the time the invention was made to protect an ophthalmic lens by applying a protecting film over the entire surface of the lens prior to the edging operation. The process of applying the film to the surface included the use of a film of adhesive coated film which adhered to the surface of the lens prior to the blocking operation and the machining of the edge of the lens. The application of the adhesive coated film to the surface of the lens ensured that one would have protected the surface of the lens in the edging and blocking operations. The reference failed to teach that one would have disposed the adhesive which was used to secure the block to the lens on the block followed by application of the lens thereto with the protective coating contacting the adhesive. Additionally, the reference failed to make mention of the use of a cling film for protecting the surface of the lens in the machining operation.

Salamon suggested that those skilled in the art at the time the invention was made would have understood that the blocking operation would have included the disposing of a protective material adjacent the lens (in the form of a dried coating) 4, and secured the lens 3 with the coating 4 thereon to a block 1 with an adhesive 2 prior to machining. The applicant is more

specifically referred to column 7, line 23-column 8, line 4 and in particular lines 53-64 of column 7, Figure 1, noting that component 2 is an adhesive used to join the lens assembly to the block 1. clearly, one skilled in the art at the time the invention was made to attach the lens with the protective film of Herbin to a block with adhesive as such was commonplace in the art of machining (edging) ophthalmic lenses. The combination, however, failed to teach or suggest that the protective film utilized would have been one which was a cling film.

The reference to Lipman suggested that those skilled in the art of protective films for ophthalmic lenses would have understood that as an alternative to the use of an adhesive coated film one skilled in the art would have employed a cling film. More specifically, applicant is referred to column 4, line 37-column 5, line 11 where the reference suggested that a cling film would have been an art recognized alternative to an adhesive coated film. It should be noted that the film materials utilized included polyethylene, polypropylene as well as cellulose films (note that the reference to Salamon suggested that one skilled in the art would have included among the coatings 4 which were the protective coatings on the lens a PVA coating or a nitrocellulose resin. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a cling film instead of an adhesive coated film in the process of Herbin as such was a well known alternative in the art for the protective films as suggested by Lipman wherein the lens with the protective coating would have been attached to the block with an adhesive in the usual manner as suggested by Salamon.

With regard to claims 2, 8 and 16, the use of a hydrophobic anti-reflective coating on the surface of the ophthalmic lens is taken as conventional in the art. The art is replete with such coatings and they are conventionally applied to the lens in order to provide desired reflective

properties in the finished assembly. Regarding claim 3, 9 and 17, the reference to Lipman suggested that the use of double sided adhesive tapes were known in the art for attachment of the lens to the block in the blocking operation, see column 2, lines 7-19 and the discussion of the 3M LEAP system where a double sided tape was used to secure the lens to the block material.

Regarding claims 4, 10, and 13, note that Lipman suggested that one skilled in the art at the time the invention was made would have utilized a polyethylene or polypropylene cling film.

Regarding claims 7, the prior art cited above suggested that one skilled in the art at the time the invention was made would have processed the edging of the lens once secured to the block in a grinding operation. Regarding claim 20, one skilled in the art would have understood that the blocks would have been provided the specified surfaces in order to adequately hold the lenses in the grinding and/or machining operation.

3. Claims 5, 11, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 2 further taken with Kassab.

While the references as set forth above suggested that one skilled in the art would have incorporated a cling film in the operation, there is no indication that one skilled in the art would have employed a vinyl film for the cling film in the operation. However the use of a vinyl film in the operation would have been obvious to one of ordinary skill in the art at the time the invention was made in light of the teachings of Kassab. More specifically, Kassab suggested that one skilled in the art would have disposed a vinyl cling film on the surface of a glass and on the opposite surface would have disposed an adhesive layer which was associated with attachment of another substrate to the glass (via the adhesive and cling film). Use of the cling film in Kassab avoided contact of the glass surface with adhesive. Clearly, incorporation of the cling film over

the lens would have avoided any contact between the lens and the adhesive of the block directly and thus would have not only protected the surface of the lens in the machining operation but also would have avoided subsequent processing to remove adhesive from the lens surface as well. Note that in Kassab the cling film employed was a vinyl static cling film, see column 5, lines 55-57. As such would have been viewed as an alternative static cling film in the process as described above in paragraph 2 for securing a block to a lens, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the vinyl film of Kassab in the operation of securing a block to a lens as set forth above in paragraph 2.

#### ***Conclusion***

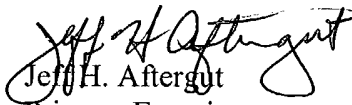
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carroll relates to a layer which was attached to a lens in a lens blocking operation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1733

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeff H. Aftergut  
Primary Examiner  
Art Unit 1733

JHA  
July 23, 2004